IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, CIVIL JURISDICTION

REVIEW PETITION NO.21091 OF 2006
IN
WRIT PETITION NO.7560 OF 2004

Smt. Vijaya Vinayak Soman.....Applicant

Versus

The State of Maharashtra & Ors.....Respondents

Shri V.G. Mujumdar for the Applicant.
Smt. M.P. Thakur, AGP for respondent Nos. 1 and 2.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.
DATED : 29TH OCTOBER 2007

P.C.

. The petitioner has preferred this Review against the order dated 11th February, 2005. It was urged before us that the eight years as part-time clerk should be considered for the purpose of calculating 10 years for the purpose of pension. We also had held that the petitioner has not brought to our attention any Rule that part-time service can be considered. In the light of that we had dismissed the petition.

2. By this review petition the petitioner contends that the establishment is a School run by a local body to which the provisions of the Maharashtra Civil Services Rules, 1980 (MCSR) are applicable. Note No.1 to Rule 5 reads as under:-

> "In case of employees paid from contingencies who are subsequently brought on a regular pensionable establishment by conversion of their posts, one-half

of their previous continuous service shall be allowed to count for pension."

It is submitted that earlier grants were not released. Subsequently the grants have been released and salaries are now released for the said post. In this context it is submitted that Note 1 of Rule 57 will have to be considered.

. In our opinion this Rule was not brought to our attention. The issue will arise as to whether on the construction of the Rule the part-time service rendered by the petitioner can be counted for the purpose of pension benefits. In the light of that we recall order dated 11th February, 2005 and restore the petition. Petition to be placed before regular Bench.

(J.P. DEVADHAR, J.) **(F.I. REBELLO, J)**